
Case No.: 2:-11-cv-650-RLH-CWH

ORDER

(Motion to Change Venue – #54)

Defendants.

AO 72
(Rev. 8/82)

1 sought to have the case “reinstated,” which this Court construed as a motion for reconsideration.
2 The Court denied Plaintiff’s reconsideration motion and Plaintiff appealed that denial.

3 The Ninth Circuit found that this Court properly dismissed Plaintiff’s Complaint because
4 Plaintiff named the Officers only in their official capacities while failing to allege a municipal
5 policy or custom. However, reasoning that “it would not be apparent to a pro se litigant that
6 dismissal without prejudice would allow amendment,” the Ninth Circuit remanded to this Court to
7 consider Plaintiff’s “request for reinstatement as a request for leave to amend.” On remand,
8 applying the amendment standard, the Court readily allowed Plaintiff to file an amended
9 complaint, which he has done. Now, Plaintiff seeks to “change venue” because Plaintiff believes
10 “this Court had error in its adjudication because of its lack of attention to pertinent issues that if
11 taken into fair consideration . . . the case could have had a different outcome.” (#54 at 2).
12 Construing this request broadly, the Court considers both whether a change in venue and whether
13 recusal of the District Judge are warranted in the interests of justice.

14 DISCUSSION

15 As to venue, a district court “may transfer any civil action to any other district or
16 division where it might have been brought or to any district or division to which all parties have
17 consented,” “[f]or the convenience of parties and witnesses, in the interest of justice.” 28 U.S.C. §
18 1404(a).

19 Here, Plaintiff has not shown that there is anything inconvenient about this forum.
20 Plaintiff and Officers are all residents of Nevada. Therefore, the District of Nevada is the only
21 venue where this case may have been brought. Additionally, Officers have not consented to
22 transfer. The most convenient forum for the parties and witnesses is the District of Nevada. For
23 those reasons, the request to change venue is denied.

24 As to disqualification, a judge must “disqualify himself in any proceeding in which
25 his impartiality might reasonably be questioned,” and in cases “[w]here he has a personal bias or
26 prejudice concerning a party.” 28 U.S.C. § 455. To demand disqualification, the movant must

1 establish that the judge manifests opinions that “display a deep-seated favoritism or antagonism
2 that would make fair judgment impossible.” *See Liteky v. United States*, 510 U.S. 540, 555 (1994).

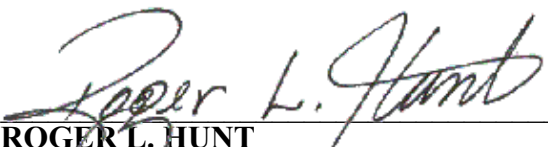
3 Plaintiff’s request is based on this Court’s prior dismissal of the Complaint and denial of
4 “reinstatement.” However, Plaintiff has not shown that there is any favoritism or antagonism that
5 would make fair judgment impossible. The Court notes the Ninth Circuit found that this Court
6 *properly* dismissed Plaintiff’s Complaint. Therefore, there was no error in adjudication. The sole
7 basis for remand was for the Court to construe Plaintiff’s request under a different legal standard.
8 The Court has done so and ruled in Plaintiff’s favor on that basis allowing him to file an amended
9 complaint. Plaintiff has not identified this Court’s personal bias or prejudice against him. Neither
10 has Plaintiff established that this Court manifests opinions that display a favoritism in favor of
11 Officers or antagonism against Plaintiff that would make fair judgment impossible.” Therefore, as
12 Plaintiff has failed to meet his burden to show disqualification is warranted, the motion is denied.

13 **CONCLUSION**

14 Accordingly, and for good cause appearing,

15 IT IS HEREBY ORDERED that Plaintiff’s Motion for Change of Venue (#54, Feb.
16 11, 2014) is DENIED.

17 Dated: March 18, 2014.

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19 
20 **ROGER L. HUNT**
21 **United States District Judge**
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